

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 28, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Linda Hunter, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor (Mary Bills and Steve Duvall absent); Ray Hill, Mike DeKalb, Jason Reynolds, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held November 14, 2001. Newman moved approval, seconded by Carlson and carried 7-0: Carlson, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Bills and Duvall absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Carlson, Hunter, Krieser, Newman, Schwinn, Steward and Taylor; Bills and Duvall absent.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3330; PRELIMINARY PLAT NO. 01010, STONE RIDGE ESTATES; SPECIAL PERMIT NO. 1946; STONE RIDGE ESTATES COMMUNITY UNIT PLAN; SPECIAL PERMIT NO. 1582A, SPECIAL PERMIT NO. 1733C, AMENDMENT TO MUFF 2ND ADDITION COMMUNITY UNIT PLAN; SPECIAL PERMIT NO. 1947; SPECIAL PERMIT NO. 1949; SPECIAL PERMIT NO. 1950; FINAL PLAT NO. 01030, HARTLAND HOMES EAST 4TH ADDITION; and COUNTY FINAL PLAT NO. 01031, HICKMAN RIDGE ESTATES.**

Item No. 1.1a, Change of Zone No. 3330; Item No. 1.1b, Preliminary Plat No. 01010; Item No. 1.1c, Special Permit No. 1946; Item No. 1.4, Special Permit No. 1947; and Item No. 1.8, County Final Plat No. 01031, were removed from the Consent Agenda and scheduled for separate public hearing.

Steward moved to approve the remaining Consent Agenda, seconded by Newman and carried 7-0: Carlson, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Bills and Duvall absent.

Note: This is final action on Special Permit No. 1582A; Special Permit No. 1949; Special Permit No. 1950; and Hartland Homes East 4th Addition Final Plat No. 01030, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 3330
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL;
and
SPECIAL PERMIT NO. 1946,
STONE RIDGE ESTATES COMMUNITY UNIT PLAN;
and
PRELIMINARY PLAT NO. 01010,
STONE RIDGE ESTATES,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 27TH & YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Planning staff recommendation: Approval of the change of zone and conditional approval of the community unit plan and preliminary plat.

These applications were removed from the Consent Agenda and has separate public hearing at the request of the applicant.

Proponents

1. Kent Seacrest appeared on behalf of **Ridge Development Company and Southview, Inc.**, and submitted proposed amendments to the conditions of approval on the preliminary plat.

Seacrest proposed that additional language be added to Condition #1.1.9 of the preliminary plat having to do with the proposed bike trail on Yankee Hill Road. The Comprehensive Plan shows the bike trail along the north side of Yankee Hill Road, which the applicant supports. However, the applicant does not believe it should be required to pay for the entire 10' width of concrete. The proposed amendment would require a sidewalk of 4' and the developer will contribute the equivalent of a 4' sidewalk in cash and the city will build the bike trail.

Seacrest requested to delete Condition #1.2: "Sewer connection fees to be determined by the City Attorney". This is one of those infrastructure cost issues that historically the Planning Commission has not wanted to deal with. Seacrest explained that this developer had to bring up a big sewer line to sewer this whole area a long time ago. The same set of developers did the golf course and overpaid for the sewer and the city knew it. The annexation agreement provided that if the clients bought other land that could come in, this developer would not have to pay the fee. Seacrest submitted that under that agreement, this developer should not have to pay that fee.

Seacrest also proposed an amendment to Condition #2.4:

~~"A waiver to curb and gutter provided the owner agrees to contribute 25% of the cost of improvements to that those portions of South 27th Street and Yankee Hill Road adjacent to this development."~~

Seacrest believes that the condition proposed by the staff which requires this developer to contribute 25% for the urban curb and gutter is illegal under the subdivision ordinance, which specifically provides that the city cannot ask for a payment when there are residential lots up against a rural section (asphalt with no curb or gutter). The subdivision ordinance makes it clear that "when our lots do not get enough direct access, we cannot ask our lots to pay for a street they do not have access to".

Seacrest also pointed to the following subdivisions that have been allowed to be built next to rural sections and which have received a waiver of this requirement: Williamsburg Village, Vintage Heights, Porter Ridge, Edenton, Country View, Pine Lake Heights, Cheney Hills, Eagle Crest, among others. He does not believe the staff can give an example where this condition has been required before. This would be a brand new policy issue.

The proposed amendment to Condition #3.2.8 is the same additional language as proposed in Condition #1.1.9 regarding the 4' wide sidewalk.

Carlson referred to Condition #2.4 and inquired about Yankee Hill Road. Seacrest explained that his clients just paid 100% to repave Yankee Hill Road. They put in an urban section so why would they pay another 25% for an urban section?

There was no testimony in opposition.

Staff questions

Hunter asked the staff to address the issue of the prior agreement for the sewer fees that were paid and whether the staff agrees with the proposed amendments. Rick Peo, City Law Department agreed with the applicant's proposed request to delete Condition #1.2 regarding

the sewer connection fees. The prior agreement indicated that if the property owners bought additional property in that basin, they did not have to pay.

With respect to the proposed amendments regarding the bike trail, Peo believes that the subdivision ordinance is a little vague as to what, when, where and under what circumstances a bike trail can be required. The city can acquire easements, which this developer is providing. Peo does not see anything in the ordinance that requires that the bike trail be constructed by the developer as a minimum improvement. All public ways will be graded to full width and bike paths are listed in the table. It might be that there is something in between construction of the 10' trail and 4' sidewalk. They could be required to at least grade the trail to the full width, but the installation might be restricted to the width of the sidewalk. Peo has not had a chance to discuss this issue with the staff or the applicant.

With respect to the amendment to Condition #2.4 regarding curb and gutter, the preliminary plat ordinance provides that if access is relinquished to the arterial, the city cannot charge for it. Peo would need to review what has been past practice as to quality. Typically, we have asked for some type of compensation or some type of waiver. If we were looking for compensation it would be more typical to determine what is being saved by not putting in curb and gutter. These are issues that the staff has not had an opportunity to discuss. These proposed amendments were just brought to the staff's attention this morning.

Hunter asked whether the staff would need some time to work this out with the applicant. Peo thought that would be helpful because it does involve other staff opinions as well.

Schwinn asked if the developer would be amenable to a two-week deferral to get the issues resolved with the staff. Seacrest is fearful a two-week delay will be a problem because of the holiday season. Normally, he would support a deferral, but he believes that the staff basically agrees with the amendments.

Rick Peo suggested that Condition #1.1.9 be left in place and that the applicant's proposed amendment to Condition #3.2.8 takes care of it. Seacrest agreed.

Public hearing was closed.

CHANGE OF ZONE NO. 3330

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Carlson moved approval, seconded by Steward and carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

PRELIMINARY PLAT NO. 01010, STONE RIDGE ESTATES

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Carlson moved to approve the staff recommendation of conditional approval, as set forth in the staff report dated November 14, 2001, with the amendments as proposed by the applicant, except the amendment to Condition #1.1.9. This deletes Condition #1.2, amends Condition #2.4 (*now #2.3 due to numbering sequence correction*), and amends Condition #3.2.8 (*now #3.2.7 due to numbering sequence correction*). The motion was seconded by Krieser and carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

SPECIAL PERMIT NO. 1946

STONE RIDGE ESTATES COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Steward moved to approve the staff recommendation of conditional approval, seconded by Hunter and carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

SPECIAL PERMIT NO. 1947

FOR A WIRELESS FACILITY,

INCLUDING A WAIVER OF THE FALL ZONE,

ON PROPERTY LOCATED AT NO. 33RD & "O" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Staff recommendation: Conditional Approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Hunter.

Proponents

1. Harvey Cooper appeared on behalf of **Cricket Nebraska Property Company**. This is a request to do a pole swap. This will replace the existing 150-160' lattice pole with a new monopole very close to the existing location. The new pole will provide coverage for Cricket. The existing lattice pole has First Wireless antennas on it as well as Qwest. Qwest will be

coming onto the new pole and the First Wireless antennas will be coming down. The new pole will be a 4-carrier pole to provide room for three additional wireless carriers. "Carrier" does not mean a beeper company. Cooper then proceeded to show photographs of the existing and the proposed pole.

Cricket did investigate a number of locations in this area. It was not possible for Cricket to collocate on the existing tower because the structural evaluation failed. They also considered the Lancaster County buildings at 3140 "N" and Woods Park. Cricket needs more height than would be possible at Woods Park. The Parks Department directed Cricket to the west side of the park by the railroad facility, but there are residential homes very close by, i.e. 100'. More problematic is the fact that the Woods Park location would be in the Capitol View Corridor. Cooper did talk with Ed Zimmer and it appears that a 120' pole in the Capitol View Corridor would be difficult to get approved.

LES has an abandoned substation (parking lot) at 2631 "O" Street, which was evaluated. This is also in the Capitol View Corridor and would not be acceptable. There are also homes abutting to the south.

Another site considered was 3130 "O" Street where there is an existing tower; however, that building cannot support a higher tower.

This proposal for a new monopole will give more capacity by being a four-carrier pole.

Cooper pointed out that, at the owner's request, the applicant had originally sited this monopole on the easternmost part of the property with waiver of fall zones to the north and east. The staff suggested that it would be better to move the tower away from there and they are now looking at relocating it, bringing it from the east side to the west side and further forward in order to meet the fall zone requirements to the north and the Speidell monument building to the east. The tower will be approximately 12 feet from the existing building, which Cooper understands is going to be torn down and will become a car lot. None of the cables and wires will be exposed.

Hunter expressed extreme concern due to the fact that there was an existing tower practically on "O" Street and there is another tower three blocks away. Is the LES substation location the only site that could be used? Cooper responded that the only vacant area is the LES area. Even if they used the other part, it would only be 30' further to the east. The parcel that is vacant is less than a square block.

Hunter believes the conditions require that this pole not have any basket type appliances, and she thought the picture showed such. Cooper assured that it would be a single arm antenna.

Brian Will of Planning staff confirmed that there is a condition of approval that no triangular platforms with antennas would be allowed. The photo simulations have not yet been changed in response to this condition.

Hunter wondered whether there were any other acceptable locations in blocks other than "O" Street. Cooper responded, stating that the "O" Street corridor is one lot deep before you run into residential. Hunter noted that there is residential abutting the back side. Cooper also noted that if they go to the south side of "O" Street, they run into the Capitol View Corridor. The Health Department building at 3140 "N" Street was too low. There were technical issues which determined that the other locations will not work because they need 150' in this area on "O" Street. Woods Park won't work because of the distance from residential and the Capitol View Corridor.

There was no testimony in opposition.

Staff questions

Hunter asked staff whether the research has really been done as far as locating this somewhere other than right on "O" Street. The existing tower has been there more than 20 years. Hunter believes that tower was placed there before "O" Street was developed as it is now. Is there any other possible location? Brian Will believes that the applicant has done a good job of looking at other sites in this area and he is comfortable with the sites that have been eliminated. We're talking about replacing an existing tower. Thus, there is no net increase in towers as opposed to putting an additional tower in the park or some other location in this area. The concern is proximity to residential in the area. This commercial corridor is about ½ block deep, so we are constrained as far as the potential location for a tower with an adequate separation. Those factors together make this an acceptable site.

Hunter believes that just because one existed there before is not necessarily the logical reason why there should be another at that location. Will pointed out that this tower will accommodate more carriers than the existing pole.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Steward moved to approve the staff recommendation of conditional approval, seconded by Krieser.

Hunter stated that she will reluctantly vote in favor.

Motion for conditional approval carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

COUNTY FINAL PLAT NO. 01031,
HICKMAN RIDGE ESTATES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 68TH STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Staff recommendation: Conditional Approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Newman.

Proponents

1. **Lyle Loth** appeared on behalf of the applicant. He assumes the question pertains to drainage. The individual that had submitted the letter commenting about an existing NRD pond that we have altered is correct, in part. There was an existing NRD pond that had a 30 inch concrete pipe as an outfall from the pond. It also had an emergency spillway, so both of the structures were a part of the pond effluent as the stormwater passed through. We have replaced the pipe with a 42" diameter and eliminated the emergency spillway. Loth's calculations show that this provides the same capacity in that larger diameter pipe. There was also concern about the discharge from the site exceeding the pre-development conditions. Again, Loth's calculations show that this development is actually reducing the flows. There is a second drainage basin that passes through this project. One comes into the NRD pond and the second comes in from the east in about the location of Lot 3. That drainage area is approximately 63 acres. The drainage area that comes in from the north through the NRD pond is about 76 acres. The drainage area coming in from the east did not have any kind of structure or check dam. It was a 30-40' wide grass waterway. This developer put in a 40 inch diameter culvert and has essentially created a second detention area which accounts for the reduced post-development runoff as compared with pre-development.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Carlson moved to approve the staff recommendation of conditional approval, seconded by Hunter.

Newman stated that she felt more comfortable having this information on the record.

Motion for conditional approval carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

CHANGE OF ZONE NO. 3195

FROM R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS

and

CHANGE OF ZONE NO. 3253

FROM R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS

and

USE PERMIT NO. 133

FOR COMMERCIAL RETAIL AND OFFICE USES,

ON PROPERTY GENERALLY LOCATED AT

S. CODDINGTON AVENUE AND WEST VAN DORN STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Staff recommendation: Approval of the changes of zone and conditional approval of the use permit.

Jason Reynolds of Planning staff submitted comments received from the Public Works Department on the use permit. These comments do not affect the conditions of approval.

Proponents

1. Kent Seacrest appeared on behalf of **Stockwell Properties, L.L.C.**, the applicant for Change of Zone No. 3253 and the use permit. He noted that there was a very firm letter from one neighbor that was troubling. Therefore, Seacrest requested a two-week delay to dialog with the complainant. This process was started two years ago and the applicants are willing to go back and revisit whatever issues there might be. This would also give the applicants further opportunity to meet with staff on some of the conditions on the use permit. There is also an additional waiver being requested on the use permit that requires readvertising.

Rick Krueger, the applicant for Change of Zone No. 3195 and the use permit, agreed with the two-week deferral.

Newman sought confirmation that the applicants will meet with both the Yankee Hill and West "A" Neighborhood Associations. Seacrest stated that he would normally take the Planning Dept. mailing list and formally send a letter to invite them to a neighborhood meeting. Historically, the neighborhood contacts are included and he will gladly include them.

Newman moved to defer for two weeks, with continued public hearing and administrative action scheduled for December 12, 2001, seconded by Carlson and carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

Other testimony

1. Stacy Deisley, 1940 W. Hill Street, testified that the zoning map attached to the letter she received from the City does not match the zoning faxed to her by the applicant.

CHANGE OF ZONE NO. 3346

FROM I-1 INDUSTRIAL TO H-3 HIGHWAY COMMERCIAL,

ON PROPERTY GENERALLY LOCATED

AT NO. 1ST AND CHARLESTON STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Jason Reynolds of the Planning Department submitted a revised staff report changing the staff recommendation from deferral to approval, finding that the change of zone generally conforms with the concepts in the Comprehensive Plan.

Proponents

1. Ron Ross, Ross Engineering, testified on behalf of the applicant. This request came about somewhat in conjunction with the Oak Creek Apartments project, which has been approved and is moving forward to the City Council. There have been ongoing discussions with this land developer and with developers on the north side of W. Charleston Street and the south side of the Chameleon property. The owners are looking for this whole area to be an upscale redevelopment area, doing away with the hard core potential uses, one of which previously was a salvage yard. The Dinerstein Companies, the developer of the Oak Creek Apartments, did have concerns about the overall development of this area and that is what started these discussions.

This proposal is 50 acres and the owner has agreed that the overall redevelopment of the area is good for them. The same theme is carrying through with the other landowners, which is part of a subarea plan that has been submitted. Ross showed the 50 acres on the map.

He noted that they did discuss H-4 with the staff; however, a desired potential use is hotel and motel and H-4 does not allow this use. Therefore, staff has now agreed that H-3 is acceptable. The change from industrial to highway commercial for a redevelopment area is certainly the right direction for the city along with this being an entrance to the community.

Carlson sought clarification that the hotel/motel use was the issue. Ross concurred, stating that there are not too many uses that are not compatible in the H-3 and H-4, except that H-4 does not allow hotels and motels. This was one of the potential uses on the applicant's list for the 50 acres.

Carlson referred to the table in the staff report comparing I-1 to H-3. Beyond the motel/hotel issue, are there other differences in setbacks and use permits? Reynolds commented that truck terminals are permitted in H-4 but not H-3. In general, H-3 and H-4 are similar in terms of the uses that are permitted, i.e. retail, contractors yards, warehouses, office, etc. H-4 has larger setbacks and H-3 has the distinguishment of allowing parking in the front yard setback. There are landscaping standards for screening parking lots in both H-3 and H-4.

Steward inquired whether this in any way affects the city property held in this area. Reynolds advised that the city property would remain zoned P Public Use, referring to the impound lot directly east and the material storage area. There is no planned change for any of the city property as far as Reynolds knows.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Steward moved approval, seconded by Hunter.

Schwinn thanked the applicant for trying to put the subarea plan together. Schwinn voted against the impound lot. This will be a good step forward for the Haymarket redevelopment and the ball fields. He believes this will be an area we will all be proud of in the future.

Motion for approval carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.

There being no further business, the meeting was adjourned at 2:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 12, 2001.